

Executive Summary – Enforcement Matter – Case No. 52294

Brenda Lopez

RN101440907

Docket No. 2016-0693-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Green Acres Mobile Home Park, 8600 Hickory Drive, Anthony, El Paso County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 19, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$217

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$217

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 4, 2016 through April 22, 2016

Date(s) of NOE(s): April 22, 2016

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Docket No. 2016-0693-PWS-E

Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 0.010 milligrams per liter for arsenic based on the running annual average [30 TEX. ADMIN. CODE § 290.106(f)(3)(C) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 120 days, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for arsenic. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study;
- b. Within 135 days, submit written certification to demonstrate compliance with a.;
- c. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology;
- d. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for arsenic;
- e. Within 195 days, submit written certification to demonstrate compliance with c.;
- f. Within 1,095 days, return to compliance with the MCL for arsenic; and
- g. Within 1,110 days, submit written certification to demonstrate compliance with f.

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Docket No. 2016-0693-PWS-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: James Boyle, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2527; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Brenda Lopez, Owner, 4869 Titanic Avenue, El Paso, Texas 79821

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Apr-2016	Screening	2-May-2016	EPA Due	
	PCW	5-May-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Brenda Lopez		
Reg. Ent. Ref. No.	RN101440907		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	52294	No. of Violations	1
Docket No.	2016-0693-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Boyle
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$150
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	45.0%	Adjustment	Subtotals 2, 3, & 7	\$67
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Notes: Enhancement for four NOV's with same/similar violations and one agreed order without a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$12,658		
Estimated Cost of Compliance	\$40,000		

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$217
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$217
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$217
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DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage.

0.0%	Reduction	Adjustment	\$0
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Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$217
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Screening Date 2-May-2016

Docket No. 2016-0693-PWS-E

PCW

Respondent Brenda Lopez

Policy Revision 4 (April 2014)

Case ID No. 52294

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101440907

Media [Statute] Public Water Supply

Enf. Coordinator James Boyle

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four NOVs with same/similar violations and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

45%

Screening Date 2-May-2016

Docket No. 2016-0693-PWS-E

PCW

Respondent Brenda Lopez

Policy Revision 4 (April 2014)

Case ID No. 52294

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101440907

Media [Statute] Public Water Supply

Enf. Coordinator James Boyle

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(3)(C) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.010 milligrams per liter ("mg/L") for arsenic based on the running annual average. Specifically, the running annual average concentrations of arsenic were 0.014 mg/L for the second quarter of 2015, 0.013 mg/L for the third quarter of 2015, 0.013 mg/L for the fourth quarter of 2015, and 0.014 mg/L for the first quarter of 2016.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for arsenic caused persons served by the Facility to be exposed to significant amounts of contaminants which did not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12,658

Violation Final Penalty Total \$218

This violation Final Assessed Penalty (adjusted for limits) \$218

Economic Benefit Worksheet

Respondent Brenda Lopez
Case ID No. 52294
Reg. Ent. Reference No. RN101440907
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	30-Jun-2015	5-Jan-2020	4.52	\$603	\$12,055	\$12,658
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The other delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for arsenic, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,000

TOTAL

\$12,658

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603154428, RN101440907, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603154428, LOPEZ, BRENDA

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN101440907, GREEN ACRES MOBILE HOME PARK

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 8600 HICKORY DRIVE IN ANTHONY IN EL PASO COUNTY, TEXAS 79821

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0710066

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: April 28, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 28, 2011 to April 28, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: James Boyle

Phone: (512) 239-2527

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? LOPEZ, BRENDA L OWNER OPERATOR since 4/17/2015
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? BOURBON, TERRY, OWNER, 1/1/1800 to 4/16/2015
- 5) If **YES**, when did the change(s) in owner or operator occur? 4/17/2015

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 06/29/2014 ADMINORDER 2014-0007-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 1Q2011 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2011 with a RAA of 0.013 mg/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 2Q2011 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2011 with a RAA of 0.013 mg/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 3Q2011 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2011 with a RAA of 0.014 mg/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 4Q2011 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2011 with a RAA of 0.015 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 1Q2012 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2012 with a RAA of 0.014 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 2Q2012 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2012 with a RAA of 0.014 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 3Q2012 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2012 with a RAA of 0.014 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 4Q2010 - The system violated the maximum contaminant level for Arsenic during the 4th quarter of 2010 with a RAA of 0.013 mg/L.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | |
|---|---|--------------------------|
| 1 | Date: 04/28/2015 (1324299) | CN603154428 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |
| | Description: ARS MCL 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for Arsenic with a RAA of 0.014 mg/L. | |
| 2 | Date: 08/31/2015 (1324299) | CN603154428 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |
| | Description: ARS MCL 3Q2015 - During the third quarter of 2015 the system violated the maximum contaminant level for Arsenic with a RAA of 0.013 mg/L. | |
| 3 | Date: 12/07/2015 (1324299) | CN603154428 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |
| | Description: ARS MCL 4Q2015 - During the fourth quarter of 2015 the system violated the maximum contaminant level for Arsenic with a RAA of 0.013 mg/L. | |
| 4 | Date: 03/14/2016 (1324299) | CN603154428 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |
| | Description: ARS MCL 1Q2016 - During the first quarter of 2016 the system violated the maximum contaminant level for Arsenic with a RAA of 0.014 mg/L. | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOV's Issued During Component Period 4/28/2011 and 4/28/2016

1 Date: 08/18/2011 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 1Q2011 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2011 with a RAA of 0.013 mg/L.
Classification: Moderate

2 Date: 03/28/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 2Q2011 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2011 with a RAA of 0.013 mg/L.

3 Date: 06/04/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 3Q2011 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2011 with a RAA of 0.014 mg/L.
Classification: Moderate

4 Date: 08/14/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 4Q2011 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2011 with a RAA of 0.015 mg/L.

5 Date: 06/04/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 1Q2012 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2012 with a RAA of 0.014 mg/L.

6 Date: 08/14/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 2Q2012 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2012 with a RAA of 0.014 mg/L.

7 Date: 09/11/2012 (1134488) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: ARS MCL 3Q2012 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2012 with a RAA of 0.014 mg/L.

8 Date: 11/12/2013 (1121915) CN603154428
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.41(a)
Description: Failure to maintain well casing sealed. At the time of the investigation, it was noted that the well casing was not sealed.

10	Date:	03/14/2016	(1324299)	CN603154428	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 1Q2016 - During the first quarter of 2016 the system violated the maximum contaminant level for Arsenic with a RAA of 0.014 mg/L.				

* NOV's applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period April 28, 2011 and April 28, 2016

Item 1	November 08, 2013**	(1121915) For Informational Purposes Only
Item 2	December 05, 2013**	(1134488) For Informational Purposes Only
Item 3	December 06, 2013**	(1135042) For Informational Purposes Only
Item 4	May 29, 2015**	(1251673) For Informational Purposes Only
Item 5	April 20, 2016	(1324299) For Informational Purposes Only
Item 6	April 22, 2016	(1328927) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRENDA LOPEZ
RN101440907**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-0693-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brenda Lopez (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that she has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 8600 Hickory Drive in Anthony, El Paso County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 47 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted from April 4, 2016 through April 22, 2016, TCEQ staff documented that the running annual average concentrations of arsenic were 0.014 milligrams per liter ("mg/L") for the second quarter of 2015, 0.013 mg/L for the third quarter of 2015, 0.013 mg/L for the fourth quarter of 2015, and 0.014 mg/L for the first quarter of 2016.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.010 mg/L for arsenic based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(3)(C) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess a penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$217 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$217 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brenda Lopez, Docket No. 2016-0693-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 120 days after the effective date of this Order, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for arsenic. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after

the effective date of this Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses listed in Ordering Provision No. 2.g.;

- b. Within 135 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.g. below, to demonstrate compliance with Ordering Provision No. 2.a.;
- c. Within 180 days after the effective date of this Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.g. below;
- d. Within 180 days after the effective date of this Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.g. below. These reports shall include information regarding actions taken to provide water which meets the MCL for arsenic;
- e. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.g. below, to demonstrate compliance with Ordering Provision No. 2.c.;
- f. Within 1,095 days after the effective date of this Order, return to compliance with the MCL for arsenic, in accordance with 30 TEX. ADMIN. CODE § 290.106; and
- g. Within 1,110 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.f. The certification shall include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and

may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Brenda Lopez
For the Executive Director

10/3/16
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Brenda Lopez

6-23-16

BRENDA LOPEZ
Name (Printed or typed)
Authorized Representative of
Brenda Lopez

Title

OWNER

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Order.

☐ If mailing address has changed, please check this box and provide the new address below: